

## Sample Letter 10: Requesting a Due Process Hearing

Street Address  
City, State, Zip Code  
Month, Date, Year

Name of Person to Whom You Are Writing  
Title  
Street Address  
City, State, Zip Code

Dear (name),

I am writing to request a due process hearing on behalf of my child, (child's name), whose address is (give your child's address, even if it is the same as your own). (Child's name) attends (name of school).

I have met with school personnel in an effort to resolve our differences concerning my son's/daughter's (IEP, placement, testing, or . . . ) and have been unable to do so. The nature of our disagreement is as follows

- Explain the problem with BRIEF statements of fact.
- Consider listing the facts with bullets or numbers.
- An acceptable resolution of the problem would include . . .

(To the extent that you know how you want the disagreement to be resolved, state these facts here, again bulleting or numbering the items if possible.)

Please advise me as soon as possible as to the date and time of this hearing so that I can make the necessary arrangements. My daytime telephone number is (give your phone number). I also request that this hearing be (open/closed) to persons other than those directly involved. (Child's name) will/will not attend the hearing. Thank you for your assistance.

Sincerely,

Your name

cc: your child's principal  
your advocate/attorney

## **Requesting a Due Process Hearing**

You've heard about due process in other places in this *Parent's Guide*. Due process is one approach that parents and schools can use to resolve disagreements. Basically, in a due process hearing, you and the school present evidence before an impartial third person called a hearing officer. The hearing officer then decides how to resolve the problem.

You have the right to request a due process hearing on any matter related to

- your child's identification as a "child with a disability,"
- his or her evaluation,
- his or her educational placement, and
- the special education and related services that the school provides to your child.

(For more information on due process hearings, see Question #26 in NICHCY's publication called *Questions and Answers about IDEA*. You may also want to talk to your PTI or P&A.)

### ***When should I request a due process hearing?***

Some reasons why a parent might file for due process include:

- The school refuses to evaluate your child.
- You disagree with the eligibility decision.
- You disagree with the services, goals, or objectives in the IEP.
- The school refuses to provide a related service, modification, or supplementary aid you think your child needs.
- You disagree with the placement decision.

Generally speaking, when the family and school disagree, it is important for both sides to first discuss their concerns and try to reach a compromise. Remember, the goal is to provide an appropriate education for your child. There are many options when deciding what an appropriate education is, and some trial and error may be necessary to develop a successful program for your child.

However, if you and the school have fully communicated, understand each other's positions, tried such strategies as IEP meetings and/or

mediation, and you still disagree, you may want to request a due process hearing. A due process hearing is a formal proceeding. As was said above, you and the school system share your information and concerns in front of a qualified, impartial hearing officer. The school system will probably be represented by an attorney. While parents are not required to have an attorney, you are strongly encouraged to have one. Your state's PTI center will have information on special education attorneys in your area. The school system must also tell you about any free or low-cost legal (and other relevant) services available in the area if you request a due process hearing or if you simply request this information.

In the due process hearing, the hearing officer will listen to both you and the school system. The hearing officer will then make a decision about how to resolve the conflict, based upon the evidence and the requirements of law.

### ***How do I request a due process hearing?***

Send your letter requesting a due process hearing to the person in charge of due process hearings for the school system. This may be the Superintendent of Schools, or the Director of Special Education, or another school official. You (or your attorney) can call the Director of Special Education in your school system to find out the name, title, and address of the person responsible for due process hearings. Send your request to this individual. Your request will then be given to a hearing officer. The hearing officer is responsible for setting the date, time, and place of the hearing. Unless both you and the school system agree differently, the hearing must be held and the decision must be made by the hearing officer no later than 45 days after the school system receives your request for the hearing.

Under IDEA, when you ask for a due process hearing, your request must include:

- the name of your child;
- the address of your child's residence;
- the name of your child's school;
- a description of the problem, including facts relating to the problem; and
- how you would resolve the problem, to the extent that a solution is known and available to you as parents.

Also, each state is required to have a model form to help parents request a due process hearing. You are not required to use the model form. However, if you want, you should be able to get a copy of this model from your school system or state department of education.

NOTE: A model form to request a due process hearing in the state of Arizona can be found at web site <http://www.ade.az.gov/ess/dispute/DueProcess/forms.asp>, or by calling an office of the SEA, Flagstaff, 928-226-0946, Phoenix, 602-364-4003, or Tucson, 520-628-6330.